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09/916,792	07/27/2001	Sean James Martin	GB920010043US1	8788
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A. Bruce Clay IBM Corporation T81/503 PO Box 12195 Research Triangle Park, NC 27709			EXAMINER BLAIR, DOUGLAS B	
			ART UNIT	PAPER NUMBER
			2142	
DATE MAILED: 03/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/916,792

Applicant(s)

MARTIN ET AL.

Examiner

Douglas B. Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. Claims 1-40 are pending in this application.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5, 7, 10-11, 14-15, 17-18, 22, 24, 27-28, 31-32, 34-35, 36-37, 39, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication Number 2002/0004833 by Tonouchi.
4. As to claim 1, Tonouchi teaches a method for regulating access by users to a scarce resource, the method comprising the steps of: receiving a request for immediate access the scarce resource (paragraphs 126-131); determining, upon receipt of the request, whether the access level for said scarce resource is at a desired maximum (paragraph 136); responsive to determining that said access level is currently at a desired maximum, automatically allocating an access slot, which specifies a time period during which the scarce resource may be accessed, said requester (paragraphs 136-138); and providing said requester with a notification of their allocated access slot, access being available to said requester at any point in the time period during which said allocated slot is enabled (Figures 16-17 and paragraphs 200-202).

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5. As to claims 18, 35, 36, 39, and 40, they feature the same limitations as claim 1 and are rejected for the same reasons as claim 1.

6. As to claim 5, Tonouchi teaches a method wherein responsive to a requesting re-requesting access to a scarce resource, determining whether an access slot is enabled; and responsive to determining that the slot is enabled, granting access (paragraphs 136-138).

7. As to claim 22, it is rejected for the same reasons as claim 5.

8. As to claim 7, Tonouchi teaches diverting a requester to a first server hosting a scarce resource (paragraphs 136-138).

9. As to claim 24, it is rejected for the same reasons as claim 7.

10. As to claim 10, Tonouchi teaches a method of tracking the number of users currently accessing the scarce resource (paragraphs 136-138); and comparing that number with a predetermined maximum value (paragraphs 136-138).

11. As to claim 27, it is rejected for the same reasons as claim 10.

12. As to claim 11, Tonouchi teaches a method of receiving a late request for access to a scarce resource from a requester having missed access when available; determining whether a scarce resource is able to accommodate access by a late requester; and responsive to determining that it is possible to accommodate access, granting access to a requester (paragraphs 136-138).

As to claim 28, it is rejected for the same reasons as claim 11.

13. As to claim 14, Tonouchi teaches determining that a requester's slot is at an end; and refusing access to the scarce resource by the requester (paragraphs 136-138).

14. As to claim 15, Tonouchi teaches determining that a requester's access slot is an a end; determining that a requester has not finished accessing a scarce resource; determining whether a

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scarce resource is able to accommodate continued access by said requester; and responsive to determining that a requester is able to accommodate continued access, granting continued access to said requester (paragraphs 136-138).

15. As to claim 17, Tonouchi teaches a method of receiving a request for access to a scarce resource; responsive to determining that the requester previously opted to leave said scarce resource early, determining whether the scarce resource can re-accommodate access, granting said requester with access to said scarce resource (paragraphs 136-138).

16. As to claims 31-32 and 34, they are rejected for the same reasons as claims 31-32, and

34. As to claim 37, Tonouchi teaches a method wherein the request for access is a request for continued access, said request being the only interaction tracked (paragraphs 126-131).

### ***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 2-3, 6, 19-20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0004833 by Tonouchi in view of U.S. Patent Application Publication Number 2002/0083342 by Webb et al..

19. As to claim 2, Tonouchi teaches the method of claim 1; however Tonouchi does not explicitly teach the use of a ticket comprising access slot information.

Webb teaches a method of issuing a requestor with a ticket comprising access slot information at least part of said access slot information being used by said requestor to determine when said allocated slot is enabled (paragraph 48).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Tonouchi regarding the regulation of access to a resource with the teachings of Webb regarding the use of a ticket because the ticket provides a method for the system to authenticate the use of the time slot (Webb, paragraph 48).

20. As to claim 19, it is rejected for the same reasons as claim 2.

21. As to claims 3 and 20, Tonouchi teaches access slot information comprising a start time for the access slot and an expiry time for the access slot (Figures 16-17 and paragraphs 200-202).

22. As to claims 6 and 23, they feature similar limitations to claims 2 and 3 and are rejected for the same reasons as claims 2 and 3.

23. Claims 4, 12-13, 16, 21, 29-30, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0004833 by Tonouchi in view of U.S. Patent Number 6,389,028 to Bondarenko et al..

24. As to claim 4, Tonouchi teaches the method of claim 1; however Tonouchi does not explicitly teach downloading an executable onto the requestor's computer.

Bondarenko teaches downloading an executable program for preventing the requester from attempting to access a scarce resource until said requester's access slot has been enabled (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Tonouchi regarding the regulation of access to

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a resource with the teachings of Bondarenko regarding the downloading of an executable because downloading an executable would reduce the amount of work performed by the server.

25. As to claim 21, it is rejected for the same reasons as claim 4.

26. As to claim 12, Tonouchi teaches the method of claim 1; however Tonouchi does not explicitly teach determining the average time spent accessing the resource and determining the length of access slots based on the average time.

Bondarenko teaches determining the average time spent accessing a scarce resource; and determining the length of the subsequent access slots based on the average time (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Tonouchi regarding the regulation of access to a resource with the teachings of Bondarenko regarding determining the average time spent accessing the resource and determining the length of access slots based on the average time because changing the length of the time slots allows for more efficient resource utilization (Bondarenko, col. 9, lines 18-54).

27. As to claim 29, it is rejected for the same reason as claim 12.

28. As to claim 13, Tonouchi teaches the method of claim 1; however Tonouchi does not explicitly teach chain of resources.

Bondarenko teaches determining that said scarce resource comprises a chain of resources (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Tonouchi regarding the regulation of access to

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a resource with the teachings of Bondarenko regarding a chain of resources because resources are sometimes distributed across the Internet (Bondarenko, col. 9, lines 18-54).

29. As to claim 30, it is rejected for the same reasons as claim 13.

30. As to claims 16 and 33, Bondarenko teaches a method wherein the access slot only applies to one of the resources in the chain and any other resource in said chain is accessible whether or not said slot is enabled (col. 9, lines 18-54).

31. As to claim 36, Tonouchi teaches the method of claim 36; however Tonouchi does not explicitly teach finding a resource in a chain of resources chain of resources.

Bondarenko teaches determining the position in a chain of resources (col. 9, lines 18-54).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Tonouchi regarding the regulation of access to a resource with the teachings of Bondarenko regarding a chain of resources because resources are sometimes distributed across the Internet (Bondarenko, col. 9, lines 18-54).

32. Claims 8-9 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0004833 by Tonouchi in view of U.S. Patent Number 6,011,537 to Slotznick.

33. As to claims 8-9, Tonouchi does not explicitly teach diverting a request to a second server and providing the requester with entertainment while the resource is not available.

Slotznick teaches diverting a request to a second server and providing the requester with entertainment while the resource is not available (col. 24, line 9-49).

It would have been obvious to one of ordinary skill in the Computer Netowrking art at the time of the invention to combine the teachings of Tonouchi regarding allocating access to a



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resource with the teachings of Slotznick regarding the provision of entertainment to a waiting user because entertainment reduces the perceived wait time (Slotznick, col. 1, line 60-col. 2, line 11).

34. As to claims 25 and 26, they are rejected for the same reasons as claims 8-9.

### ***Response to Arguments***

35. Applicant's arguments filed 12/8/2005 have been fully considered but they are not persuasive. The applicant argues the following points: a) Tonouchi only teaches reservations for a further time period and not the current time period; b) Tonouchi does not teach automatically allocating a time slot; and c) Tonouchi does not teach accommodating "late" access.

36. As to point (a), in paragraph 130 Tonouchi states that the contract server gathers a time periods that are not filled up for presentation to the client. If the current time is not filled up then it will be presented to the user thus allowing immediate access. The claim states nothing specific about the request other than that it's "immediate" so someone using the Tonouchi invention for "immediate" access will be in essence performing the claimed method and means.

37. As to point (b), the fact that Tonouchi allows the user to confirm the time slot does not mean the allocation is not "automatic".

38. As to point (c), there's nothing different about the method for allowing "late" access from the method for allowing regular access so therefore as discussed above Tonouchi teaches allowing "late" access.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair



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SUPERVISORY PATENT EXAMINER